

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2343

IN THE MATTER OF:

Served June 9, 1982

Application of INTERNATIONAL)	Case No. AP-80-26
LIMOUSINE SERVICE, INC., for a)	
Certificate of Public Convenience)	
and Necessity to Perform Charter)	
Operations Between Points in the)	
Metropolitan District)	

By Order No. 2277, served November 16, 1981, the Commission reopened Case No. AP-80-26 for the purpose of conducting an inquiry into the compliance of International Limousine Service, Inc., with the provisions of the Compact and the Commission's rules, regulations and orders issued thereunder. Specifically, credible information indicating that International may have knowingly charged charter customers fares in excess of those published in International's WMATC Tariff No. 1 was submitted by Beltway Limousine Service, Inc., in Case Nos. CP-81-11 and CP-81-12. A public hearing on the matter was held on January 11, 1982. Executive Limousine Service, Inc., and Beltway Limousine Service, Inc., appeared.

The question of overcharges arose primarily from the allegation that International was regularly adding a 15 percent service charge (tip) on to its regular tariff rate without customer input. An ancillary issue concerning the charge for District of Columbia sales tax is not relevant to our consideration herein. International's charge for local sales tax is pursuant to a company-specific interpretation by the D. C. Department of Finance of District of Columbia regulations.

Prior to the hearing the Legal Department of the Commission reviewed service orders of International for operations by the carrier during the period October 1, 1980, through October 31, 1981, 1/ concerning trips between points in the Metropolitan District in vehicles with a seating capacity in excess of eight passengers. No representatives of protestants appeared for the review. The staff

1/ No operations were conducted between October 1980 and the approval of authority to operate in January 1981.

review of all invoices for the relevant time period indicated that the rates charged appeared in conformance with the carrier's WMATC tariff with a few minor deviations. The staff entered into a stipulation with International's counsel 2/ noting the staff findings that there was no evidence of a pattern of willful or knowing violations of the Commission's rules or regulations or of International's tariff. In addition, as a further check, the staff of the Commission telephoned a random sample of International's customers billed during September and October 1981. This spot check failed to reveal any willful or knowing violation of the Commission's rules, regulations or International's tariff. Additionally, from inquiry directed to from five to seven persons called in the telephone check, it appears that International did not automatically include a tip in its bill and that, when a tip was included in the bill by International, the customer had requested that such be done.

An employee of Beltway testified that he arranged for transportation on two occasions in October 1981. He stated that on the first request for service (for October 10, 1981) the price he was quoted was for a lump-sum price including a service charge of 15 percent and a guide service fee although he requested neither a guide nor inclusion of a service charge. The witness stated that he felt he had no choice regarding the charge which was "highly recommended" by International's president who took the service order. In addition, he was quoted the price for a 20-passenger vehicle for his small group although International publishes a less expensive tariff rate for a 17-passenger vehicle. He did not inquire as to vehicle size.

With regard to the second request for service (to be performed October 9, 1981) the witness testified he was quoted a lump sum price with no mention of service charge or vehicle size. Service was performed on October 9, 1981 (per the second request for service) but no service was performed on October 10, 1981, with Beltway's employee explaining that he was told by the president of International that "someone named Linda" called and cancelled the trip. The Beltway employee stated he knows of no one who could have cancelled the trip, although he admitted both trips were arranged solely to check on International's tariff practices. 3/

2/ Exhibit 1-A received in evidence at the public hearing.

3/ Allegations were raised regarding tariff violations and the fitness of International in Case Nos. CP-81-11 and CP-81-12.

Ultimately the witness was tendered a check for refund of the trip scheduled for October 10, 1981, and a partial refund for the trip of October 9, 1981, concerning the guide charge (no guide was provided), but the bill did include a 15-percent service charge.

No witness appeared for International at the public hearing.

Subsequent to the public hearing the Commission reopened the case pursuant to Commission Rule No. 27-02 for the limited purpose of reviewing those business records of International underlying the stipulation entered into between the Commission's staff and International's counsel. 4/ International was directed to produce the relevant business records at a specified date and time so they would be available for inspection by counsel for all parties to the proceeding. An opportunity for any party to request oral examination regarding the business records was established, as was a schedule for the filing of supplemental briefs containing analysis of the business records and any conclusions based thereon. Counsel for Beltway reviewed the business records, but no party submitted a request for oral hearing or filed a supplemental brief concerning this matter.

Based on our review of the record, including the business records supplied by International, and the lack of additional comments or a request for oral examination regarding the business records, the Commission finds that while there may be a few instances where International has miscalculated tariff charges, there does not appear to be a knowing and willful intent to charge the public improper fares. The isolated instances of incorrect charges discovered during the review seem to be the result of mathematical errors and, in one case, the extension of discount fares given to a religious institution, which practice was stopped upon the advice of the staff. The random survey of International's customers, admittedly not scientific in nature, nonetheless brought up no improper practices. The evidence presented by Beltway's witness certainly raises questions about the calculation of charter fares by International but, given the apparent lack of clarity of discussion between International and the Beltway employee, is inconclusive about any willful violation. The issue of whether service charges were added without the customer's knowledge is unclear inasmuch as there was testimony that the charge was "highly recommended" during the witness's first conversation in placing a service order. Similarly, the fact that International did not provide service ordered for October 10, 1981, because of an alleged

4/ See Order No. 2318, served March 3, 1982, and Order Nos. 2325 and 2326, served March 23 and March 29, 1982, respectively.

cancellation brings into question the normal burden of a common carrier to provide service whenever ordered no matter who requests the service. It can be speculated that International realized it was being "set-up" and refused to "bite". Again, the evidence of record is not clear.

The Commission concludes that, while no proof of knowing and willful tariff improprieties have been established, International must clarify several of its tariff charges. The carrier will be directed to identify its equipment by the seating capacity, e.g. 17-passenger capacity vehicles and 20-passenger capacity vehicles rather than 1-17 passengers and 1-20 passengers, and to inform the public of the two different sizes available and the concomitant prices of each when service orders are placed. Furthermore, it must be specified in the tariff that a charge for a sightseeing guide will be extra (including the charge) only when a guide is specifically requested by the customer when charter service is arranged. With respect to service charges, International's invoices sent to customers for payment must state that a service charge will be included with payment only at the option of the transportation purchaser.

As was noted in Order No. 2277 the Commission reserved the right to reassess costs of the hearing (initially assessed to International) pending the outcome of this reopened proceeding. The hearing was held on the basis of complaints alleging tariff improprieties. The Commission had specifically reserved jurisdiction to reopen the proceeding granting International authority 5/ in view of previous fitness problems 6/ for a redetermination of the carrier's compliance, financial and operational fitness. In view of the carrier's previous problems and the substantive complaints made herein, International will bear the costs of the hearing.

As a final matter, International has been submitting quarterly reports to the Commission commencing with the first calendar quarter of 1981, pursuant to the directives of Order No. 2187, served January 26, 1981, wherein the carrier was granted operating authority and was found to be fit to conduct service as authorized in that order. A review of those quarterly reports and the business records submitted in this proceeding shows that International has been performing authorized service in a manner consistent with its certificate of public convenience and necessity. Accordingly, the Commission will direct that the carrier cease providing quarterly reports effective with the recently filed report for the first calendar quarter of 1982.

5/ See Order No. 2187, served January 26, 1981, at page 11.

6/ See Order No. 2168, served November 24, 1980.

THEREFORE, IT IS ORDERED:

1. That International Limousine Service, Inc., file a modified WMATC Tariff No. 1 as described above.

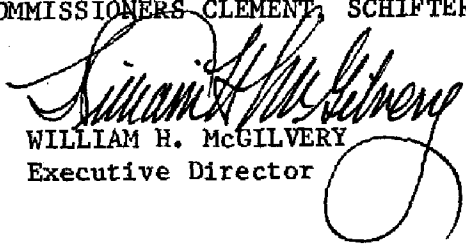
2. That International Limousine Service, Inc., file an affidavit of compliance regarding modification of its invoice form as described above.

3. That International Limousine Service, Inc., bear the costs of the public hearing held January 11, 1982.

4. That International Limousine Service, Inc., is hereby directed to cease submittal of the quarterly reports as previously directed to be filed, pursuant to Order No. 2187.

5. That in the event International Limousine Service, Inc., fails to comply with the directives set forth above within 30 days, or such time as may be authorized by the Commission, the carrier's authority will be suspended and an investigation initiated concerning that lack of compliance.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY
Executive Director